

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
EASTERN DIVISION

CIVIL ACTION No. 04-11934-GAO

NOAH GREENBERG,
Plaintiff

v.

TOWN OF FALMOUTH and
GANNETT FLEMING, INC.,
Defendants

AFFIDAVIT OF THOMAS A. KAHRL

I, Thomas A. Kahrl, hereby state and depose as follows:

1. I am an attorney licence to practice law in the Commonwealth of Massachusetts. I was licensed to practice in Massachusetts in 1968. Since 1976 I have been registered to practice before the United States Patent and Trademark Office (Registration No. 28,225). I have practiced intellectual property law for over three decades. I maintain an office in Falmouth, Massachusetts.

2. On or about January 17, 2003, I submitted to the United States Copyright Office an application for registration of copyright (Form VA) in four architectural drawings prepared by Mr. Noah Greenberg.

3. I conferred with Mr. Greenberg while completing the application to confirm that the information reflected on the application was accurate.

4. The application included reproductions of four different drawings that all included the title Department of Public Works, 416 Gifford Street, Falmouth, Massachusetts, and were separately identified as follows:

- 1 Site Plan
- 2 Floor Plan Part A
- 3 Floor Plan Part B
- 4 Elevations (color)

I have maintained copies of the drawings attached to the application.

4. In response to the application, the Copyright Office advised that copyright in architectural drawings and copyright in architectural works may not be claimed in one application. The office suggested that two new applications be submitted claiming separate copyright protections. The office required the deposit of only one set of drawings for both applications, so no additional drawings were required to be deposited.

5. I submitted two supplemental applications in April 2003.

6. In response to the applications, I received two original certificates of registration, true copies of which are attached hereto.

7. Because an application and proper deposit of the architectural drawing was received by the Copyright Office on February 3, 2003, the copyright registration in the drawings numbered 1 - 3 was effective February 3, 2003. A true copy of the receipt received from the Copyright Office is attached hereto.

8. Because an application for registration of the architectural work was not received and paid for until April 11, 2003, the copyright in the architectural work was effect that date.

9. I have compared the architectural drawings marked as exhibits in a deposition of Mr. Greenberg conducted on October 17, 2002, and a deposition of the Town of Falmouth conducted on November 30, 2005, with the drawings I submitted to the United States Copyright Office and they appear to be the same, with the exception that drawing 4 of the exhibit is a black and white copy of the color rendition deposited with the copyright office.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 17TH DAY OF JANUARY 2006.



Thomas A. Kahrl

CERTIFICATE OF REGISTRATION



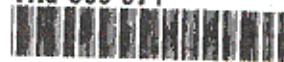
OFFICIAL SEAL

This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters
 REGISTER OF COPYRIGHTS
 United States of America

FORM VA
 For a Work of the Visual Arts
 UNITED STATES COPYRIGHT OFFICE

VAu 566-971



EFFECTIVE DATE OF REGISTRATION

02 03 03
 Month Day Year

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

Title of This Work ▼

NATURE OF THIS WORK ▼ See instructions

DEPARTMENT OF PUBLIC WORKS

Architectural Drawings

Previous or Alternative Titles ▼

Publication as a Contribution If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work ▼

If published in a periodical or serial give: Volume ▼ Number ▼ Issue Date ▼ On Pages ▼

NAME OF AUTHOR ▼

Noah Greenberg

DATES OF BIRTH AND DEATH

Year Born ▼ Year Died ▼

1940

Was this contribution to the work a
 "work made for hire"?

☐ Yes
☒ No

Author's Nationality or Domicile
 Name of Country

OR { Citizen of USA
 Domiciled in

Was This Author's Contribution to the Work

Anonymous? ☐ Yes ☒ No
 Pseudonymous? ☐ Yes ☒ No

If the answer to either
 of these questions is
 "Yes," see detailed
 instructions.

Nature of Authorship Check appropriate box(es). See instructions

☐ 3-Dimensional sculpture ☐ Map ☒ Technical drawing
☐ 2-Dimensional artwork ☐ Photograph ☐ Text
☐ Reproduction of work of art ☐ Jewelry design ☒ Architectural work

Name of Author ▼

Dates of Birth and Death

Year Born ▼ Year Died ▼

Was this contribution to the work a
 "work made for hire"?

☐ Yes
☒ No

Author's Nationality or Domicile
 Name of Country

OR { Citizen of
 Domiciled in

Was This Author's Contribution to the Work

Anonymous? ☐ Yes ☒ No
 Pseudonymous? ☐ Yes ☒ No

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☐ 3-Dimensional sculpture ☐ Map ☐ Technical drawing
☐ 2-Dimensional artwork ☐ Photograph ☐ Text
☐ Reproduction of work of art ☐ Jewelry design ☐ Architectural work

Year in Which Creation of This Work Was

Completed 1998 This information
 must be given
 Year in all cases.

Date and Nation of First Publication of This Particular Work

Complete this information ONLY if this work
 has been published. Month Day Year Nation

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼

Noah Greenberg, AIA, Noah Greenberg Associates
 22 BeeBe Acres Road, Falmouth, MA 02540

Transfer If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright ▼

APPLICATION RECEIVED
 APR 11 2003 2/3/03
 ONE DEPOSIT RECEIVED
 APR 11 2003 2/3/03
 TWO DEPOSITS RECEIVED

FUNDS RECEIVED

2/3/03

MORE ON BACK ▶

• Complete all applicable spaces (numbers 5-9) on the reverse side of this page.
 • See detailed instructions. • Sign the form at line 8.

DO NOT WRITE HERE

Page 1 of 2 pages

NOTE

Under the law, the "author" of a "work made for hire" is generally the employer, not the employee (see instructions). For any part of this work that was "made for hire" check "Yes" in the space provided, give the employer (or other person for whom the work was prepared) as "Author" of that part, and leave the space for birth and death blank.

See instructions before completing this space.

EXAMINED BY

FORM VA

CHECKED BY

☒ CORRESPONDENCE

Yes

FOR
COPYRIGHT
OFFICE
USE
ONLY

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?Yes ☒ No ☐ If your answer is "Yes," why is another registration being sought? (Check appropriate box.) ▼a. ☐ This is the first published edition of a work previously registered in unpublished form.b. ☐ This is the first application submitted by this author to copyright this work.c. ☐ This is a changed version of the work, as shown by space 6 in this application.

If your answer is "Yes," give Previous Registration Number ▼

Year of Registration ▼

DERIVATIVE WORK OR COMPILATION Complete both space 6a and 6b for a derivative work; complete only 6b for a compilation.a. **Preexisting Material** Identify any preexisting work or works that this work is based on or incorporates. ▼See instructions
before completing
this spaceb. **Material Added to This Work** Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. ▼**DEPOSIT ACCOUNT** If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.
Name ▼ Account Number ▼**CORRESPONDENCE** Give name and address to which correspondence about this application should be sent. Name Address Apt City State ZIP ▼Thomas A. Kahrl, Esq.
Box 1177
West Falmouth, MA 02574

Area code and daytime telephone number: 508 548 2444

Fax number: 508 457 5511

Email: tkahrl@earthlink.net

CERTIFICATION* I, the undersigned, hereby certify that I am the

check only one ▶

☐ author☐ other copyright claimant☐ owner of exclusive right(s)☒ authorized agent of Noah Greenberg

Name of author or other copyright claimant, or owner of exclusive right(s) ▲

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Typed or printed name and date ▼ If this application gives a date of publication in space 3, do not sign and submit it before that date.

Thomas A. Kahrl

Date

April 19, 2003

Handwritten signature (X) ▼

Certificate
will be
mailed in
window
envelope
to this
address:Name ▼
Thomas A. Kahrl, Esq.
Number Street Apt ▼
Box 1177
City/State/ZIP ▼
West Falmouth MA 02574**YOU MUST:**

- Complete all necessary spaces.
- Sign your application in space 8.

**SEND ALL 3 ELEMENTS
IN THE SAME PACKAGE:**

- Application form
- Nonrefundable filing fee in check or money order payable to Register of Copyrights
- Deposit material

MAIL TO:Library of Congress
Copyright Office
101 Independence Avenue, S.E.
Washington, D.C. 20559-6000Fees are subject to
change. For current
fees, check the
Copyright Office
website at
www.copyright.gov
write the Copyright
Office, or call
(202) 707-9000

*17 U.S.C. § 505(e): Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.

CERTIFICATE OF REGISTRATION



OFFICIAL SEAL

This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

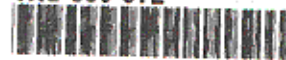
Marybeth Peters
 REGISTER OF COPYRIGHTS
 United States of America

FORM VA

For a Work of the Visual Arts
 UNITED STATES COPYRIGHT OFFICE

REC

VAu 566-972



EFFECTIVE DATE OF REGISTRATION

04 11 03
 Month Day Year

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

Title of This Work ▼

NATURE OF THIS WORK ▼ See instructions

DEPARTMENT OF PUBLIC WORKS

Architectural Work

Previous or Alternative Titles ▼

Publication as a Contribution If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work ▼

If published in a periodical or serial give: Volume ▼

Number ▼

Issue Date ▼

On Pages ▼

Not yet constructed

NAME OF AUTHOR ▼

Noah Greenberg

DATES OF BIRTH AND DEATH

Year Born ▼

Year Died ▼

1940

Was this contribution to the work a
 "work made for hire"?

☐ Yes☒ No

Author's Nationality or Domicile
 Name of Country

OR ☐ Citizen of USA☐ Domiciled in

Was This Author's Contribution to the Work

Anonymous? ☐ Yes ☒ NoPseudonymous? ☐ Yes ☒ No

If the answer to either
 of these questions is
 "Yes," see detailed
 instructions

Nature of Authorship Check appropriate box(es) See instructions

☐ 3-Dimensional sculpture☐ Map☐ Technical drawing☐ 2-Dimensional artwork☐ Photograph☐ Text☐ Reproduction of work of art☐ Jewelry design☒ Architectural work

Name of Author ▼

Dates of Birth and Death

Year Born ▼

Year Died ▼

Was this contribution to the work a
 "work made for hire"?

☐ Yes☐ No

Author's Nationality or Domicile
 Name of Country

OR ☐ Citizen of☐ Domiciled in

Was This Author's Contribution to the Work

Anonymous? ☐ Yes ☐ NoPseudonymous? ☐ Yes ☐ No

If the answer to either
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 instructions

Nature of Authorship Check appropriate box(es) See instructions

☐ 3-Dimensional sculpture☐ Map☐ Technical drawing☐ 2-Dimensional artwork☐ Photograph☐ Text☐ Reproduction of work of art☐ Jewelry design☐ Architectural work

Year in Which Creation of This Work Was

Completed

1998

This information
 must be given
 Year in all cases.

Date and Nation of First Publication of This Particular Work

Complete this information

ONLY if this work
 has been published.

Month

Day

Year

Nation

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2 ▼

Noah Greenberg, AIA, Noah Greenberg Associates
 22 Beebe Acres Road, Falmouth, MA 02540

Transfer If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

APPLICATION RECEIVED
 APR 11 2003
 ONE DEPOSIT RECEIVED
 APR 11 2003
 TWO DEPOSITS RECEIVED

FUNDS RECEIVED

4-11-03

MORE ON BACK ▶

• Complete all applicable spaces (numbers 5-9) on the reverse side of this page
 • See detailed instructions
 • Sign the form at line 8

DO NOT WRITE HERE

Page 1 of 2 pages

NOTE

Under the law, the "author" of a "work made for hire" is generally the employer, not the employee (see instructions). For any part of this work that was "made for hire" check "Yes" in the space provided, give the employer (or other person for whom the work was prepared) as "Author" of that part, and leave the space for dates of birth and death blank.

See instructions
 before completing
 this space

EXAMINED BY

WRB

FORM VA

CHECKED BY



CORRESPONDENCE

Yes

FOR
COPYRIGHT
OFFICE
USE
ONLY

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?Yes ☒ No ☐ If your answer is "Yes," why is another registration being sought? (Check appropriate box.) ▼

- a. ☐ This is the first published edition of a work previously registered in unpublished form
- b. ☐ This is the first application submitted by this author as copyright claimant
- c. ☐ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give: Previous Registration Number ▼

Year of Registration ▼

DERIVATIVE WORK OR COMPILATION Complete both space 6a and 6b for a derivative work; complete only 6b for a compilation

a. Preexisting Material Identify any preexisting work or works that this work is based on or incorporates. ▼

See instructions
before completing
this space

b. Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. ▼

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account

Name ▼

Account Number ▼

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name Address Apt/City/State ZIP ▼

Thomas A. Kahrl, Esq.
Box 1177
West Falmouth, MA 02574

Area code and daytime telephone number (508) 548 2444

Fax number (508) 457 5511

Email tkahrl@earthlink.net

CERTIFICATION I, the undersigned, hereby certify that I am the

check only one ▶

author

other copyright claimant

owner of exclusive rights

authorized agent of

Noah Greenberg

Name of author or other copyright claimant, or owner of exclusive rights) ▲

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge

Typed or printed name and date ▼ If this application gives a date of publication in space 3, do not sign and submit it before that date

Thomas A. Kahrl

Date

April 10, 2003

Handwritten signature (X) ▼

Certificate
will be
mailed in
window
envelope
to this
address:

Name ▼

Thomas A. Kahrl, ESQ.

Number/Street/Apt ▼

Box 1177

City/State/Zip ▼

West Falmouth MA 02574

YOU MUST

- Complete all necessary spaces
- Sign your application in space 8

**SEND ALL 3 ELEMENTS
IN THE SAME PACKAGE**

1. Application form
2. Nonrefundable filing fee in check or money order payable to Register of Copyrights
3. Deposit material

MAIL TO:

Library of Congress
Copyright Office
101 Independence Avenue, S.E.
Washington, D.C. 20559-6000

For a list of
change the current
fee, check the
Copyright Office
website at
www.copyright.gov
with the Copyright
Office at (202) 707-3000

*17 U.S.C. § 506(e) Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.

FORM VA
 UNITED STATES COPYRIGHT OFFICE
 REGISTRATION NUMBER

132129886



VA VAU
 EFFECTIVE DATE OF REGISTRATION

Month Day Year

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

TITLE OF THIS WORK ▼

NATURE OF THIS WORK ▼ See instructions

DEPARTMENT OF PUBLIC WORKS

Architectural Plans, Building & Site

PREVIOUS OR ALTERNATIVE TITLES ▼

PUBLICATION AS A CONTRIBUTION If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work ▼

If published in a periodical or serial give: Volume ▼ Number ▼ Issue Date ▼ On Pages ▼

NAME OF AUTHOR ▼

Noah Greenberg

DATES OF BIRTH AND DEATH
 Year Born ▼ Year Died ▼
 1940

Was this contribution to the work a "work made for hire"?
☐ Yes
☒ No

AUTHOR'S NATIONALITY OR DOMICILE

Name of Country
 Citizen of ▼ USA
 OR Domiciled in ▼

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK
 Anonymous? ☐ Yes ☒ No
 Pseudonymous? ☐ Yes ☒ No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Briefly describe nature of the material created by this author in which copyright is claimed. ▼

Building & Site Design; incl. site (1), floor plan(2), & (3), elevations (4)

NAME OF AUTHOR ▼

DATES OF BIRTH AND DEATH
 Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"?
☐ Yes
☒ No

AUTHOR'S NATIONALITY OR DOMICILE

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 Citizen of ▼
 OR Domiciled in ▼

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☒ No

AUTHOR'S NATIONALITY OR DOMICILE

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 Citizen of ▼
 OR Domiciled in ▼

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 Pseudonymous? ☐ Yes ☐ No

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NATURE OF AUTHORSHIP Briefly describe nature of the material created by this author in which copyright is claimed. ▼

YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED This information must be given in all cases.

1998

Year

DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK

Complete this information ONLY if this work has been published.

Month ▼ Day ▼ Year ▼

Nation

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼

Noah Greenberg, AIA
 Noah Greenberg Associates
 22 Beebe Acres Road, Falmouth, MA 02540

APPLICATION RECEIVED
 FEB 03.2003
 ONE DEPOSIT RECEIVED
 FEB 03.2003
 TWO DEPOSITS RECEIVED

TRANSFER If the claimant(s) named here in space 4 are different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

REMITTANCE NUMBER AND DATE

MORE ON BACK • Complete all applicable spaces (numbers 5-9) on the reverse side of this page.
 • See detailed instructions. • Sign the form at line 8

DO NOT WRITE HERE

Page 1 of _____ pages

NOTE

Under the law, the "author" of a work made for hire" is generally the employer, not the employee (see instructions). For any part of this work that was "made for hire" in the space provided, give the employer (or other person for whom the work was prepared) as "Author" of that part, and leave the space for dates of birth and death blank.

See instructions for completing space

DO NOT WRITE HERE OFFICE USE ONLY

CHECKED BY

☐ CORRESPONDENCE

Yes

FOR
COPYRIGHT
OFFICE
USE
ONLY

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

☐ Yes ☒ No If your answer is "Yes," why is another registration being sought? (Check appropriate box) ▼☐ This is the first published edition of a work previously registered in unpublished form.☐ This is the first application submitted by this author as copyright claimant.☐ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give: Previous Registration Number ▼

Year of Registration ▼

DERIVATIVE WORK OR COMPILATION Complete both space 6a & 6b for a derivative work; complete only 6b for a compilation.

a. Preexisting Material Identify any preexisting work or works that this work is based on or incorporates. ▼

b. Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. ▼

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.
Name ▼ Account Number ▼

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt./City/State/Zip ▼

Thomas A. Kahrl, Esq.

Box 1177

West Falmouth, MA 02574

Area Code & Telephone Number ▶ 508 548 2444

Be sure to
give your
daytime phone
number

CERTIFICATION* I, the undersigned, hereby certify that I am the

Check only one ▼

☐ author☐ other copyright claimant☐ owner of exclusive right(s)☒ authorized agent of Noah Greenberg

Name of author or other copyright claimant, or owner of exclusive right(s) ▲

of the work identified in this application and that the statements made
by me in this application are correct to the best of my knowledge.

Typed or printed name and date ▼ If this application gives a date of publication in space 3, do not sign and submit it before that date.

Thomas A. Kahrl

date ▶ Jan. 17 2003

Handwritten signature (X) ▼

MAIL
CERTIFI-
CATE TOCertificate
will be
mailed in
window
envelope

Name ▼

Thomas A. Kahrl, Esq.

Number/Street/Apartment Number ▼

Box 1177

City/State/ZIP ▼

West Falmouth, MA 02574

YOU MUST

- Complete all necessary spaces
- Sign your application in space 8

SEND ALL PAYMENTS
IN THE SAME ENVELOPE

1. Application form
2. Non-refundable \$10 filing fee
in check or money order
payable to Register of Copyrights
3. Deposit material

MAIL TO

Register of Copyrights
Library of Congress
Washington, D.C. 20559

* 17 U.S.C. § 506(e). Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.